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 by and through Attorney General Xavier Becerra  
 and the California Energy Resources Conservation  
 and Development Commission*

10 [Additional counsel for plaintiffs listed on signature  
 page]

11 IN THE UNITED STATES DISTRICT COURT  
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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 15 **NATURAL RESOURCES DEFENSE  
 COUNCIL, INC.; SIERRA CLUB;  
 CONSUMER FEDERATION OF  
 AMERICA; and TEXAS RATEPAYERS'  
 ORGANIZATION TO SAVE ENERGY,**

16 Plaintiffs,

17 v.

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 19  
 20 **RICK PERRY, in his official capacity as  
 21 Secretary of the United States Department  
 of Energy; and the UNITED STATES  
 22 DEPARTMENT OF ENERGY,**

23 Defendants,

24 and

25 **AIR CONDITIONING, HEATING, AND  
 26 REFRIGERATION INSTITUTE,**

27  
 28 Defendant-Intervenor.

**Lead Case**

Case No. 17-cv-03404-VC

**JOINT STIPULATION AND  
~~[PROPOSED]~~ ORDER EXTENDING  
 BRIEFING DEADLINES ON STATE  
 PLAINTIFFS' RENEWED MOTION  
 FOR ATTORNEYS' FEES**

Judge: Hon. Vince Chhabria  
 Action Filed: June 13, 2017  
 Hearing: November 19, 2020

THE PEOPLE OF THE STATE OF CALIFORNIA, BY AND THROUGH ATTORNEY GENERAL XAVIER BECERRA, THE CALIFORNIA ENERGY COMMISSION, STATE OF NEW YORK, STATE OF CONNECTICUT, STATE OF ILLINOIS, STATE OF MAINE, STATE OF MARYLAND, COMMONWEALTH OF MASSACHUSETTS, STATE OF MINNESOTA, BY AND THROUGH ITS MINNESOTA DEPARTMENT OF COMMERCE AND MINNESOTA POLLUTION CONTROL AGENCY, STATE OF OREGON, COMMONWEALTH OF PENNSYLVANIA, STATE OF VERMONT, STATE OF WASHINGTON, THE DISTRICT OF COLUMBIA and CITY OF NEW YORK,

## *Consolidated with*

Case No. 17-cv-03406-VC

## Plaintiffs,

v.

**JAMES R. PERRY, AS SECRETARY OF  
UNITED STATES DEPARTMENT OF  
ENERGY, and THE UNITED STATES  
DEPARTMENT OF ENERGY,**

## Defendants,

and

# AIR CONDITIONING, HEATING, AND REFRIGERATION INSTITUTE,

## Defendant-Intervenor.

Pursuant to Civil Local Rule 6-2 and 7-12, the State Plaintiff movants and Defendants respectfully submit this stipulated request that the Court extend the time for the Defendants to file a response to State Plaintiffs' renewed motion under Federal Rule of Civil Procedure 54(d) for fees in this matter by 28 days from Thursday, September 24, 2020, to Thursday, October 22, 2020, and extend the State Plaintiffs' deadline to file a reply by an equivalent amount to Monday, October 29, 2020. The requested time will allow for ongoing negotiations of an agreed-upon resolution of the fees and costs incurred by State Plaintiffs in this case.

1                   **PROCEDURAL BACKGROUND**

2                   While the parties have not previously requested an extension of time for the briefing of  
 3 State Plaintiffs' renewed motion and the requested extension would not necessitate an extension  
 4 of the November 19, 2020, hearing date that has been reserved, there are other extensions that  
 5 were previously granted by the Court in this matter. Decl. of Somerset Perry, ¶ 5.

6                   Federal Rule of Civil Procedure 54(d)(2)(B)(i) provides that a motion for attorneys' fees  
 7 must be filed no later than 14 days after the entry of judgment in a case. On February 15, 2018,  
 8 the Court entered judgment for the Plaintiffs in this matter, meaning a motion for attorney fees  
 9 would have been due March 1, 2018. The Court subsequently granted the Parties' joint stipulated  
 10 request to extend the deadline to April 30, 2018. ECF No. 83, 84. After the Defendants filed their  
 11 notice of appeal (ECF No. 85), the Court again granted the Parties' joint stipulated request to  
 12 extend the fee motion deadline to sixty days after the conclusion of the Defendants' appeal. ECF  
 13 No. 102, 103. Following its ruling in favor of the Plaintiffs, and the expiration of the Defendants'  
 14 period to file an appeal, the Ninth Circuit issued its mandate on December 2, 2019. This Court  
 15 subsequently granted two stipulations, which extended the deadline for Plaintiffs' motion for  
 16 attorneys' fees to March 16, 2020, and then May 15, 2020. ECF Nos. 109, 110, 112, 113.  
 17 Pursuant to those extensions, State Plaintiffs filed their initial motion for attorneys' fees on May  
 18 15, 2020. ECF No. 117. Following that filing, the Parties agreed to an extension of the  
 19 Defendants' deadline to file their opposition, which the Court granted. ECF No. 119, 120. After  
 20 vacating the hearing, the Court denied the State Plaintiffs' fee motion without prejudice on  
 21 August 20, 2020. ECF Nos. 138, 139. The State Plaintiffs filed a renewed motion on September  
 22 10, 2020. ECF No. 140.

23                   State Plaintiffs' renewed motion, filed on September 10, 2020, substantially revised the  
 24 amount that State Plaintiffs are seeking in attorneys' fees. Decl. of Somerset Perry, ¶ 3. Based on  
 25 this revision, State Plaintiffs and the Defendants have embarked on negotiations towards a  
 26 possible settlement, and have exchanged offers the week of September 14. *Id.* While progress has  
 27 been made, additional time is needed for negotiations between the Parties if a resolution of the  
 28 State Plaintiffs' renewed fee motion is to be reached. *Id.* at ¶ 4. Under the current schedule,

1 however, Defendants' brief responding to State Plaintiffs' renewed motion is due on September  
2 24, 2020, which means that absent an extension Defendants would need to dedicate their time and  
3 resources fully to preparing that response. Thus, the Parties request a 28-day extension of  
4 Defendants' briefing deadline and a commensurate extension of State Plaintiffs reply date to  
5 allow for negotiations. Such negotiations, if successful, would avert the need for further briefing  
6 on the renewed fee motion, saving time for the Court and the Parties.

7 As the merits portion of the case has been concluded with the Ninth Circuit's ruling and no  
8 other issues remain outstanding, and the hearing on State Plaintiffs' renewed motion has been  
9 calendared for November 19, 2020, the extended deadline would have no effect on the schedule  
10 of the case.

11 For the foregoing reasons, the State Plaintiffs and Defendants stipulate to and respectfully  
12 request that the Court enter an order extending the deadline for the Defendants to file their  
13 opposition to the State Plaintiffs' renewed motion and the State Plaintiffs deadline to file their  
14 reply by twenty-eight days to October 22 and October 29, 2020, respectively.

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1 Dated: September 21, 2020

Respectfully Submitted,

2 XAVIER BECERRA  
3 Attorney General of California  
4 DAVID A. ZONANA  
5 Supervising Deputy Attorney General

6 /s/ Somerset Perry  
7 SOMERSET PERRY  
8 Deputy Attorney General

9  
10 *Attorneys for the People of the State of  
California, by and through Attorney  
General Xavier Becerra and the California  
Energy Resources Conservation and  
Development Commission*

11 Dated: September 21, 2020

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13 Attorney General of the  
Commonwealth of Massachusetts  
14 Attorney for Plaintiff Commonwealth of  
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15 /s/ I. Andrew Goldberg  
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18 Dated: September 21, 2020

19 /s/ Michelle R. Bennett  
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22 *Counsel for Defendants*

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28 ECR Renewed Fees Ext Stip Sept 21 20.docx

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2 PURSUANT TO STIPULATION, IT IS HEREBY ORDERED that the deadline for  
3 Defendants to file their opposition to the State Plaintiffs' renewed motion for attorneys' fees is  
4 extended to October 22, 2020, and the State Plaintiffs' deadline to file their reply for the renewed  
5 motion for attorneys' fees is extended to October 29, 2020.

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